



City of Ketchum

**CITY COUNCIL MEETING AGENDA MEMO**

Meeting Date:  Staff Member/Dept:

Agenda Item:

**Recommended Motion:**

**Reasons for Recommendation:**

- 
- 
- 

**Policy Analysis and Background (non-consent items only):**

**Sustainability Impact:**

**Financial Impact:**

Attachments:

1. Right-of-Way Encroachment Agreement 25942A
2. Exhibit "A"
3. Exhibit "B"

**WHEN RECORDED, PLEASE RETURN TO:**

**OFFICE OF THE CITY CLERK  
CITY OF KETCHUM  
POST OFFICE BOX 2315  
KETCHUM, IDAHO 83340**

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**RIGHT-OF-WAY ENCROACHMENT AGREEMENT 25942A**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2025, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and Russell and Dana Marino (collectively referred to as "Owner"), whose address is PO BOX 4257 HAILEY ID 83333.

*RECITALS*

WHEREAS, Owner is the owner of real property described as 117 Holiday Lane ("Subject Property"), located within the City of Ketchum, State of Idaho, and;

WHEREAS, Owner wishes to permit placement of a trench drain and storm drain pipe beneath a driveway within the right of way on Exhibition Blvd. These improvements are shown in Exhibit "A" attached hereto and incorporated herein (collectively referred to as the "Improvements"); and,

WHEREAS, Owner wishes to install soil nails within the right of way on Holiday Lane in accordance with a formal Soil Nail Shoring Plan, to stabilize earth and foundation on the Subject Property. These improvements are shown in Exhibit "B" attached hereto and incorporated herein (collectively referred to as the "Improvements"); and,

WHEREAS, Ketchum finds that said Improvements will not impede the use of said public right-of-way at this time subject to the terms and provisions of this Agreement;

WHEREAS, the Owner will restore the landscaping back to the original condition acceptable to the Streets and Facilities Director;

NOW, THEREFORE, in contemplation of the above stated facts and objectives, it is hereby agreed as follows:

*TERMS AND CONDITIONS*

1. Ketchum shall permit Owner to place a trench drain and storm drain pipe beneath a driveway, as identified in Exhibit "A", within the public right-of-way on Exhibition Blvd, and soil nails, as identified in Exhibit "B", within the public right-of-way on Holiday Lane, until notified by Ketchum to remove the infrastructure at which time Owner shall remove infrastructure at Owner's expense.
2. Owner shall be responsible for the maintenance of said Improvements and shall repair said improvements within 48 hours upon notice from Ketchum that repairs are needed. Any modification to the improvements identified in Exhibit "A" and Exhibit "B" shall be approved by the City prior to any modifications taking place.

3. Owner shall be responsible for restoring the landscaping that is altered due to the installation and removal of the Improvements, to the satisfaction of the Director of Streets and Facilities.

4. In consideration of Ketchum allowing Owner to maintain the Improvements in the public right-of-way, Owner agrees to indemnify and hold harmless Ketchum from and against any and all claims of liability for any injury or damage to any person or property arising from the Improvements constructed, installed and maintained in the public right-of-way. Owner shall further indemnify and hold Ketchum harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under this Agreement, or arising from any negligence of Owner or Owner's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such action or proceeding brought thereon. In the event any action or proceeding is brought against Ketchum by reason of such claim, Owner, upon notice from Ketchum, shall defend Ketchum at Owner's expense by counsel satisfactory to Ketchum. Owner, as a material part of the consideration to Ketchum, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained in the public right-of-way arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against Ketchum.

5. Ketchum shall not be liable for injury to Owner's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Owner, its tenants, employees, invitees, customers, agents or contractors or any other person in or about the Subject Property caused by or resulting from the Improvements constructed, installed, removed or maintained in the public right-of-way.

6. Owner understands and agrees that by maintaining the Improvements in the public right-of-way pursuant to this Agreement, Owner obtains no claim or interest in said public right-of-way which is adverse to that of Ketchum and that Owner obtains no exclusive right to said public right-of-way nor any other right to use the public right-of-way not specifically described herein.

7. In the event either party hereto retains an attorney to enforce any of the rights, duties and obligations arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees at the trial and appellate levels and, whether or not litigation is actually instituted.

8. This Agreement shall be governed by, construed, and enforced in accordance with the laws and decisions of the State of Idaho. Venue shall be in the District Court of the fifth Judicial District of the State of Idaho.

9. This Agreement sets forth the entire understanding of the parties hereto and shall not be changed or terminated orally. It is understood and agreed by the parties hereto that there are no verbal promises or implied promises, agreements, stipulations or other representations of any kind or character pertaining to the Improvements maintained in the public right-of-way other than as set forth in this Agreement.

10. No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of this document.

11. This Agreement shall be recorded with the Blaine County Recorder by Ketchum.

12. The parties fully understand all of the provisions of this Agreement, and believe them to be fair, just, adequate, and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

OWNER:

CITY OF KETCHUM:

By: \_\_\_\_\_

Russell Marino

By: \_\_\_\_\_

Neil Bradshaw

Its: Mayor

By: \_\_\_\_\_

Dana Marino

STATE OF \_\_\_\_\_, )  
 ) ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2025, before me, the undersigned Notary Public in and for said State, personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

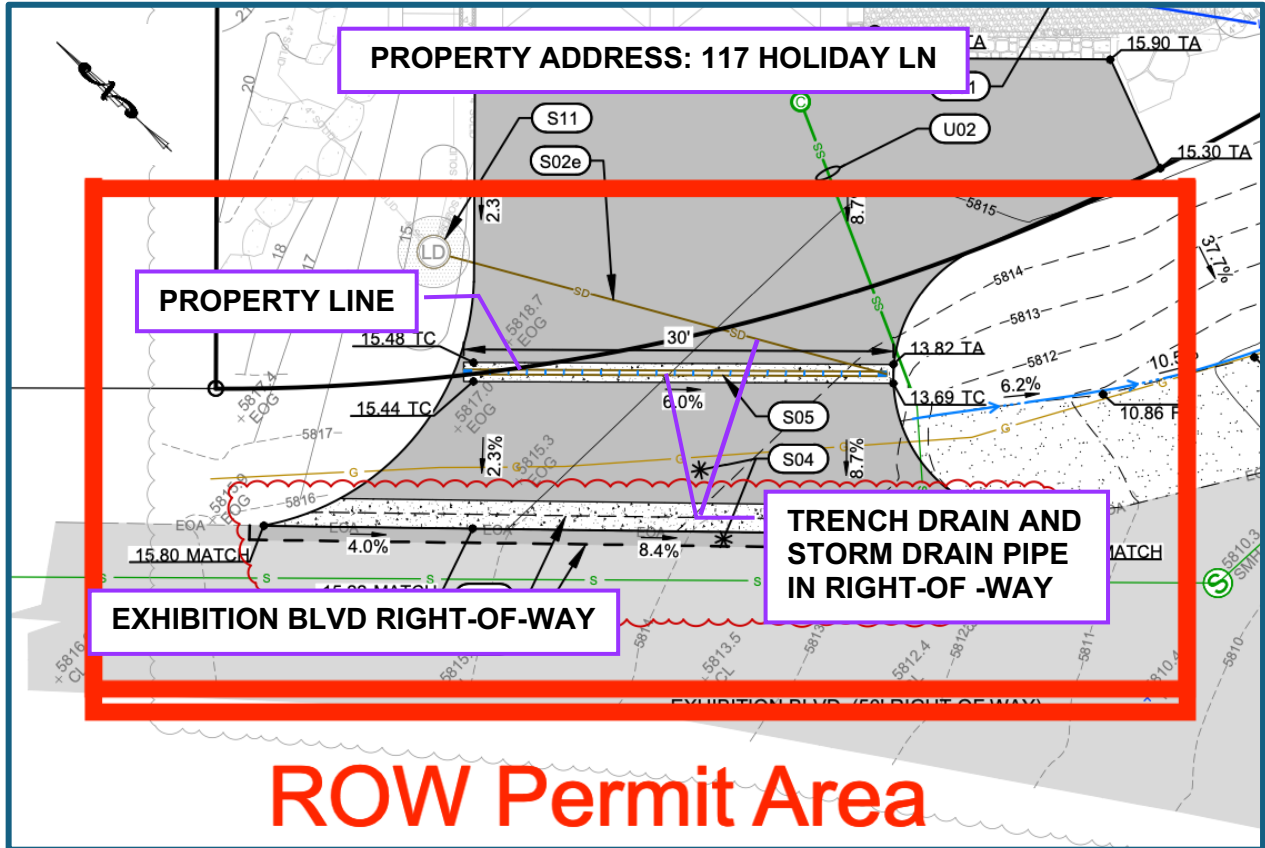
STATE OF IDAHO )  
 ) ss.  
County of Blaine )

On this \_\_\_\_ day of \_\_\_\_\_, 2025 before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified to me to be the Mayor of the CITY OF KETCHUM, IDAHO, and the person who executed the foregoing instrument on behalf of said municipal corporation and acknowledged to me that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

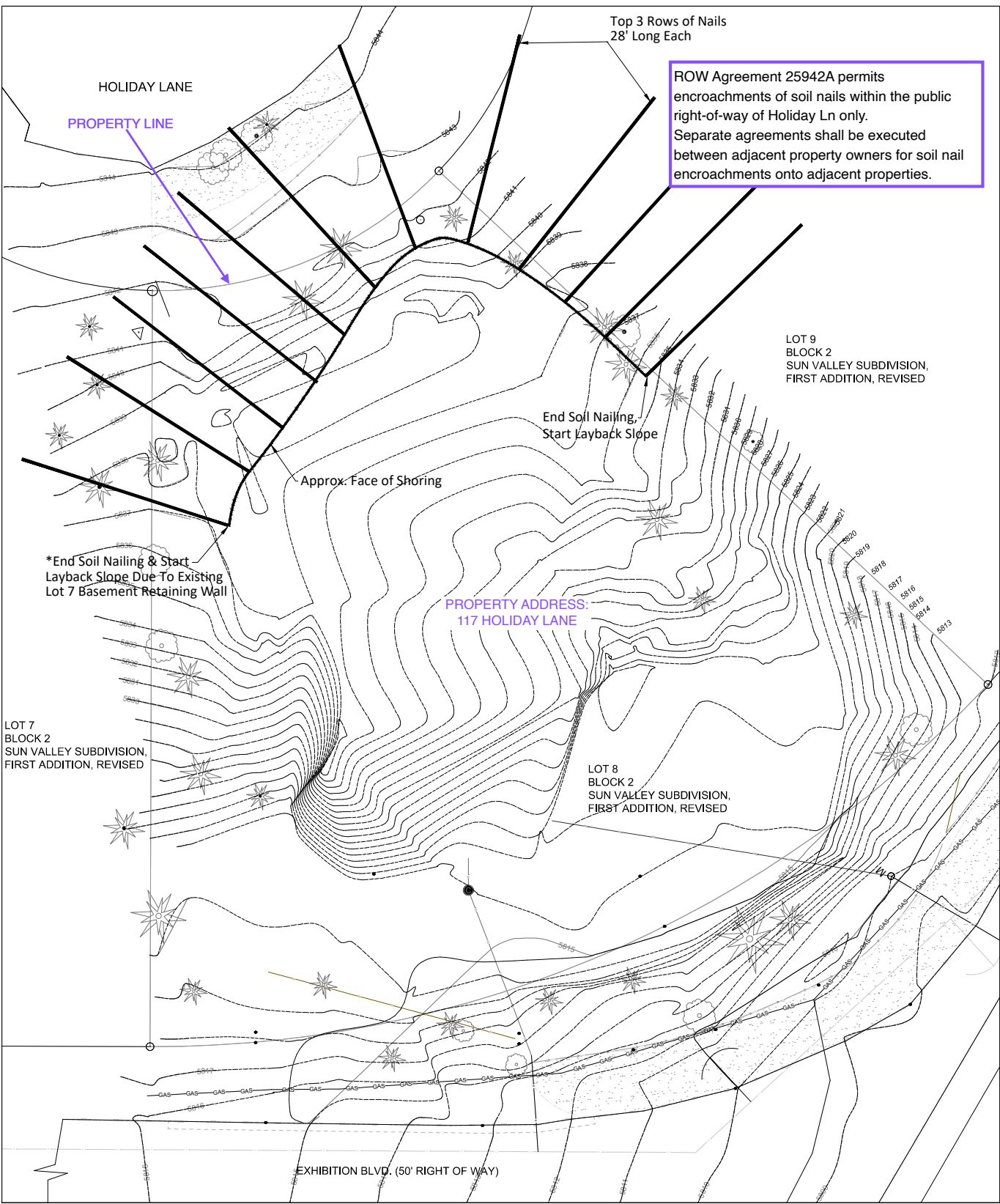
\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

EXHIBIT "A"



Base figure provided by applicant, prepared by Galena-Benchmark Engineering - Nov. 2024  
Figure annotated with purple textboxes by City Engineering Robyn Mattison to clarify improvements included in Right-Of-Way Encroachment Agreement No. 25942A

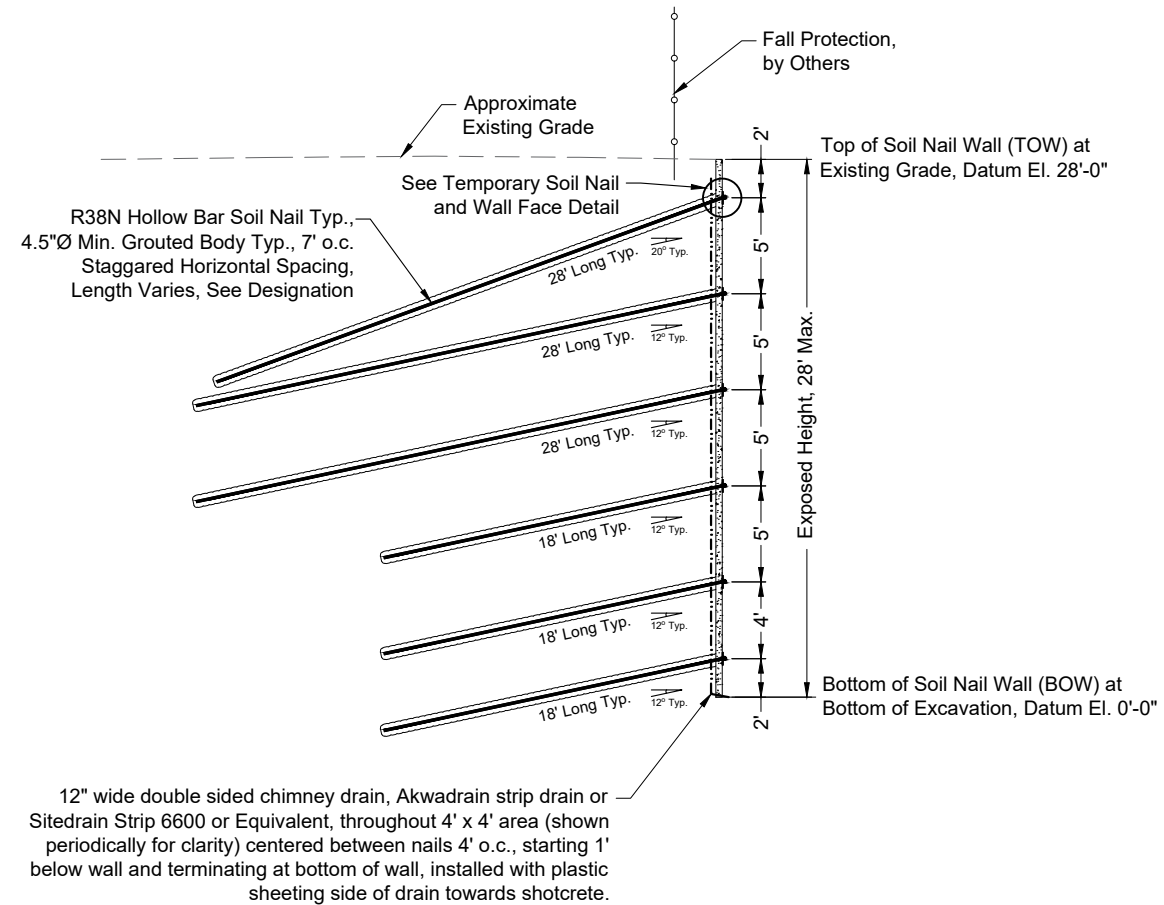
ROW Agreement 25942A permits encroachments of soil nails within the public right-of-way of Holiday Ln only. Separate agreements shall be executed between adjacent property owners for soil nail encroachments onto adjacent properties.



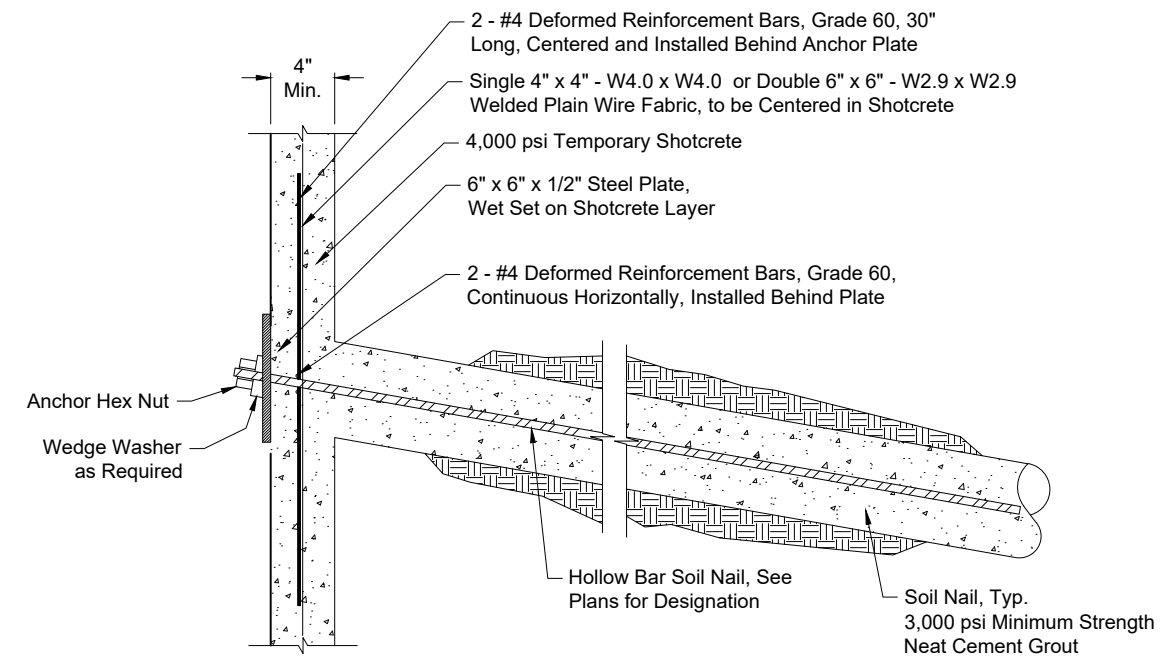
**SOIL NAIL SHORING PLAN**  
Marino Residence  
117 Holiday Lane  
Ketchum, Idaho

Butler Associates, Inc.  
P.O.B. 1034  
Ketchum, ID 83340  
208.720.6432  
svgeotech@gmail.com

2-14-25  
Not To Scale



**Typical Cross-Section**



**Soil Nail and Wall Face Detail**  
 Not to Scale

**Notes:**

The soil nail wall is to be installed to the specifications indicated in these drawings subject to field verification. Layout and limits of the walls to be determined in the field by General Contractor in keeping with the intent and overall objectives of these plans. It is recommended that the new footings be surveyed in to provide the basis for the shoring layout. Utilities to be potholed and field verified prior to soil nail wall installation. Gordon Geotechnical Engineering Inc. (G<sup>2</sup>) to be notified immediately of potential conflicts with the shoring layout as shown. G<sup>2</sup> assumes no responsibility for damage to utilities or other structures. Shoring location and geometry is approximate, subject to field verification.

Contractor is responsible for construction of the shoring as detailed by these specifications. Variations from the details as shown hereon may not be made except with the express written consent of the design engineer (G<sup>2</sup>). Changes made in the field made without this consent shall be done solely at the risk of the contractor. Conflicts between these plans and the general project plans to be resolved by Gordon Geotechnical Engineering Inc., whose decision shall be final. No warranty is expressed or implied, only that these designs were prepared in general accordance with design principles in use at the time this work was performed.

